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STATE CAPITOL  
Phoenix, Arizona 85007

August 18, 1975

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Mr. Alfred J. Rogers  
Administrative Assistant  
Office of the Governor  
State Capitol  
Phoenix, Arizona

Dear Mr. Rogers:

We are in receipt of your letter inquiry pertaining to a vacancy on the Board of Directors of the Fountain Hills Sanitary District. Essentially, you ask whether the Governor has the responsibility to fill the vacancy by appointment and if there are other alternatives to filling such a vacancy.

The Arizona Constitution, Article 5, Section 8, speaks to the matter of the Governor's authority to fill vacancies by appointment. That constitutional provision reads:

When any office shall, from any cause, become vacant, and no mode shall be provided by the Constitution or by law for filling such vacancy, the Governor shall have the power to fill such vacancy by appointment.

Simply, the plain meaning of the above language is that the Governor's power to fill vacancies only arises when no other constitutional or statutory provisions treats the filling of vacancies for a particular office. Our review of the pertinent statutes leads us to conclude that there is a law applicable to filling vacancies on boards of directors of sanitary districts.

The public office of director of a sanitary district is established in A. R. S. Section 36-1309. Although that law provides that "the first directors shall be selected by the board of supervisors at the time the district is established", and that thereafter directors must stand for election, there is no express procedure contained therein that pertains

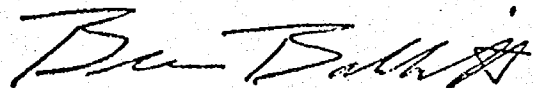
Mr. Alfred J. Rogers  
August 18, 1975  
Page 2

to the filling of vacancies on the board. However, it is noted that county boards of supervisors are empowered, pursuant to A. R. S. Section 11-251.16 with filling by appointment all vacancies occurring in county offices. Thus, the inquiry reduces itself to whether a director of a sanitary district is a county officer.

It is our conclusion that directors of sanitary districts are indeed county officers within the meaning of A. R. S. Section 11-251.16; accordingly, the Governor is under no constitutional obligation to fill by appointment any vacancy in such office. Simply, indices of county officialdom pervade the statutory scheme. A. R. S. Section 36-1301 provides for the establishment of sanitary districts by the board of supervisors of the county in which the district is located. A. R. S. Sections 36-1302 through 36-1307 set forth the petition and hearing procedures to be followed before the board of supervisors in either establishing, adding to or altering sanitary districts. As alluded to above, A. R. S. Section 36-1309 authorizes the county board to appoint the first directors of a district. However, that statute further provides that the supervisors themselves shall govern any sanitary district with an area of less than 160 acres. All proceeds from the sale of bonds, issued in accordance with A. R. S. Section 36-1320, are "placed in the county treasury to the credit of the district." A. R. S. Section 36-1321.A. In fact, the board of supervisors is charged with levying a sanitary district tax in addition to the general county assessment. See A. R. S. Sections 36-1324 and 36-1325.

In light of the foregoing statutory references, it is apparent that a director of a sanitary district is a county official. Thus, it is the responsibility of the county board of supervisors, pursuant to A. R. S. Section 11-251.16 to fill any vacancy that may exist in such office.

Sincerely,



BRUCE E. BABBITT  
Attorney General